

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MICHAEL JAMES NISSEN,

Plaintiff,

v.

No. 1:24-cv-00784-DHU-KK

JOE BIDEN,¹

Defendant.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

Plaintiff is a restricted filer. *See* Order Imposing Filing Restrictions, Doc. 12, filed May 13, 2024, in *Nissen v. Biden*, No. 1:24-cv-00274-WJ-KK (“*Nissen IV*”). Chief United States District Judge William P. Johnson restricted Plaintiff from initiating future litigation in this Court unless either a licensed attorney who is admitted to practice before this Court signs the pleading or Plaintiff first obtains permission to proceed *pro se* by, among other things, filing a petition requesting leave to file a *pro se* initial pleading and the proposed initial pleading. *See* Order Imposing Filing Restrictions at 4, Doc. 12, filed May 13, 2024, in *Nissen IV*.

Plaintiff initiated this action by filing his Petition Requesting Leave to File a Pro Se Initial Pleading along with his proposed initial pleading. *See* Doc. 3, filed August 6, 2024 (“Petition”); Civil Rights Complaint Pursuant to 42 U.S.C. § 1983, Doc. 1, filed August 6, 2024. Plaintiff also

¹ The caption the proposed complaint indicates Defendant is “United States of America.” Doc. 1 at 1, filed August 6, 2024. The “Jurisdiction” section of the form complaint indicates the Defendant is “Joe Biden.” *Id.* The Court construes the Complaint as asserting claims against Joe Biden because there are no allegations in the Complaint that the United States waived its sovereign immunity. *See High Lonesome Ranch, LLC v. Bd. Of County Comm’rs for the County of Garfield*, 61 F.4th 1225, 1237 (10th Cir. 2023) (“The United States is immune from suit unless Congress has expressly waived its sovereign immunity”) (citing *Block v. North Dakota ex rel. Bd. of Univ. & Sch. Lands*, 461 U.S. 273, 280 (1983)).

filed an Application to Proceed in District Court Without Prepaying Fees or Costs, Doc. 2, filed August 6, 2024, and a Motion to Quash Court Imposed Filing Restrictions so Claimant Can Proceed as the Cestui Que Trust Authorized Representative, Doc. 4, filed August 6, 2024.

The Court denied Plaintiff's Petition to proceed *pro se* because Plaintiff's proposed initial pleading failed to state a claim upon which relief can be granted. *See* Order Denying Petition to Proceed *Pro Se* at 3, Doc. 7, filed August 12, 2024 ("Order"). The Court ordered Plaintiff to have a licensed attorney who is admitted to practice before this Court enter an appearance on behalf of Plaintiff and notified Plaintiff that "[f]ailure to timely comply with this Order may result in dismissal of this case." Order at 5. Because the Court denied Plaintiff's Petition to proceed *pro se*, the Court deferred ruling on Plaintiff's Application to proceed *in forma pauperis* and Plaintiff's Motion to Quash Court Imposed Filing Restrictions until after the deadline for Plaintiff to comply with the Order to have an authorized attorney enter an appearance on Plaintiff's behalf.

Plaintiff did not have a licensed attorney who is admitted to practice before this Court enter an appearance on behalf of Plaintiff by the September 11, 2024, deadline. Instead, Plaintiff filed several documents. *See* Notice of Order to Show Cause, Doc. 8, filed August 19, 2024; Affidavit in Truth, Doc. 9, filed August 21, 2024; Declaration by the Sole Occupant in the Office of the Cestui Que Trust, Doc. 10, filed August 23, 2024; Formal Objection in Opposition of Court Ordered Filing Restrictions Case 1:24-CV-274-WJ-KK, Doc. 11, filed September 9, 2024; Formal Objection Regarding Subject Matter Jurisdiction, Doc. 12, filed September 9, 2024; Legal Notice, Doc. 13, filed September 11, 2024.

The Court denies Plaintiff's Application to proceed *in forma pauperis* and Plaintiff's Motion to Quash Court Imposed Filing Restrictions because the Court is not allowing Plaintiff to proceed *pro se* and the Motions are not signed by an attorney authorized to practice in this Court.

The Court dismisses this case without prejudice because: (i) the Court denied Plaintiff's Petition to proceed *pro se*; and (ii) Plaintiff has not had a licensed attorney who is admitted to practice before this Court enter an appearance on behalf of Plaintiff by the September 11, 2024, deadline.

IT IS ORDERED that:

- (i) Application to Proceed in District Court Without Prepaying Fees or Costs, Doc. 2, filed August 6, 2024, is **DENIED**.
- (ii) Plaintiff's Motion to Quash Court Imposed Filing Restrictions so Claimant Can Proceed as the Cestui Que Trust Authorized Representative, Doc. 4, filed August 6, 2024, is **DENIED**.
- (iii) This case is **DISMISSED without prejudice**.


UNITED STATES DISTRICT JUDGE